

AMENDED IN ASSEMBLY AUGUST 9, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1608

**Introduced by Senator Karnette
(Coauthors: Senators Romero and Vasconcellos)**

February 20, 2004

An act to amend Sections 2912 and 5028 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1608, as amended, Karnette. Corrections: prisoners: foreign nationals.

Existing law requires that upon entry of any person who is an undocumented alien subject to deportation into a facility operated by the Department of Corrections, and at least every year thereafter, the Director of Corrections inform the person of his or her right to be transferred to his or her country of origin to serve the remainder of his or her prison term.

This bill would delete the annual notification requirement, would expand these provisions to include all foreign nationals, and would provide the person the option to serve the remainder of his or her term in his or her nation of citizenship. The bill would also impose additional notification requirements upon the director, including notifying consulates or embassies *provided there is no objection by the foreign national*, and compliance with the 1963 Vienna Convention on Consular Relations Treaty.

This bill would make other technical conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2912 of the Penal Code is amended to
2 read:

3 2912. (a) Under its Foreign Prisoner Transfer Program, the
4 Board of Prison Terms shall devise a method of notifying each
5 undocumented felon in a prison or reception center operated by the
6 Department of Corrections that he or she may be eligible to serve
7 his or her term of imprisonment in his or her nation of citizenship
8 as provided in federal treaties.

9 (b) (1) The Board of Prison Terms shall actively encourage
10 each eligible undocumented felon to apply for return to his or her
11 nation of citizenship as provided in federal treaties and shall
12 provide quarterly reports outlining its efforts under this section to
13 the Chairperson of the Joint Legislative Budget Committee and the
14 chairperson of each fiscal committee of the Legislature.

15 (2) The Board of Prison Terms shall adopt the model program
16 developed by the State of Texas for encouraging participation in
17 the federal repatriation program where appropriate.

18 SEC. 2. Section 5028 of the Penal Code is amended to read:

19 5028. (a) Upon the entry of any person who is a foreign
20 national into a facility operated by the Department of Corrections,
21 the Director of Corrections shall inform the person that he or she
22 may apply to be transferred to serve the remainder of his or her
23 prison term in his or her nation of citizenship. The director shall
24 inform the person that he or she may contact his or her consulate
25 and shall ensure that if notification is requested, that the person's
26 nearest consulate or embassy is notified without delay of his or her
27 incarceration. ~~¶~~

28 (b) *If* a foreign national with citizenship in a nation that requires
29 mandatory notification according to the 1963 Vienna Convention
30 on Consular Relations Treaty is received as a committed felon by
31 the department, the director shall inform the consulate ~~or~~ *of* that
32 nation of the committed felon's incarceration without delay. The
33 director shall inform the foreign national that the consulate has
34 been notified. The director shall keep written records sufficient to
35 show compliance with notification requirements. Semi-annually,



1 the director shall provide to the appropriate foreign consulate a list
2 of that nation's citizens who are incarcerated in department
3 institutions.

4 ~~(b)~~

5 *(c) Notwithstanding subdivision (b), a foreign national shall be*
6 *advised by the department that he or she may request that the*
7 *department withhold notification of his or her incarceration from*
8 *the consulate of the nation of which he or she is a citizen. The name*
9 *of any prisoner who makes such a request shall be omitted from the*
10 *semiannual list provided by the department to the appropriate*
11 *foreign consulate of that nation's citizens who are incarcerated in*
12 *department institutions under subdivision (b).*

13 *(d) The Department of Corrections may pay any foreign nation*
14 *to which an inmate is transferred under subdivision (a) no more*
15 *than two thousand dollars (\$2,000) from moneys appropriated by*
16 *the Legislature for that purpose for every year that the inmate is*
17 *imprisoned until he or she has completed the prison term which he*
18 *or she began serving in this state.*

